THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27778 OF 1995

ORAL ORDER:

The petitioner was the former Sarpach of Nadakuduru Gram Panchayat. On 29.1.1994, 1400 quintals of maize, which was seized by the Inspector of Police, Vigilance Cell, Kakinada, was handed over to him for safe custody, pending the proceedings under Section 6-A of the Essential Commodities Act. Subsequently, the seized stock was disposed of in a public auction in favour of one T.S.N. Reddy, who was declared as the highest bidder. However, while taking possession, it was complained by the auction purchaser that there was a deficit to the extent of 314.25 quintals in the stock sold, and he made a claim for refund of a sum of Rs.1,04,150/- towards the value of deficit stock. Having considered all aspects, the Commissioner of Civil Supplies by letter dated 10.10.1994 directed to take necessary action to recover the amount from the petitioner, who is the custodian and who had acknowledged receipt of 1400 quintals. Accordingly, the 2nd respondent issued the impugned notice dated 10.6.1995, calling upon the petitioner to pay a sum of Rs.1,04,150/- towards the cost of deficit stock of 314.25 quintals, within 10 days. The said notice was challenged in this writ petition, contending *inter alia*, that no prior notice was issued to the petitioner before initiating steps to recover the value of the alleged deficit stock.

This Court initially granted interim stay of recovery. Subsequently, after hearing both the parties, the interim order was modified with a direction to the petitioner to deposit half of the demanded amount.

I have heard the learned counsel for both parties.

A counter-affidavit has been filed on behalf of the respondents stating that in the enquiry conducted under Section 6-A of the Essential Commodities Act, notice was issued to the petitioner and he filed written explanation about the shortage of 314.25 quintals of

maize. The Joint Collector did not accept the explanation offered by the petitioner and, accordingly, the impugned notice was issued directing the petitioner to pay the cost of deficit stock.

From the counter-affidavit filed on behalf of the respondents, the contents of which stood un-rebutted, it is clear that the petitioner was issued a notice in pursuance of which, he participated in the enquiry conducted under Section 6-A of the Essential Commodities Act, and having considered the explanation offered by him, the Joint Collector, recorded a finding as to the liability of the petitioner. Hence, the allegation that the impugned order was passed without an opportunity to the petitioner to put-forth his version is unfounded.

Since admittedly the seized stock was acknowledged by the petitioner while taking delivery for safe custody and since the deficit to the extent of 314.25 quintals is also not in dispute, I am unable to hold that the respondents have committed any error in taking steps to recover the value of the deficit stock from the petitioner.

Accordingly, the writ petition is dismissed. However, the petitioner is granted three months time to deposit the remaining half of the amount demanded under the impugned notice. No costs.

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(G. ROHINI, J.)

5th September, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27778 OF 1995

5th September, 2006.

Between:

Singampalli Tata Rao. .. Petitioner.

And

The Inspector of Police, Vigilance Cell,
Civil Supplies Department, Kakinada,
East Godavari District and others. ..Respondents.